

**TIVERTON PLANNING BOARD
MINUTES OF MEETING
January 16, 2007**

Chair Rosemary Eva called the regular meeting of the Tiverton Planning Board to order at 7:00 P.M at the Town Hall, 343 Highland Road. Members present were: Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg, board member and Administrative Officer. Also in attendance was the Director of Public Works, David Webster (who arrived at 7:20 P.M.) and the Board's planning consultant, Jane Weidman. The Chair welcomed the new Town Planner, Christopher Spencer who was also seated at the dais.

1. JPS Realty Management, LLC – c/o Arthur Smith – 3626 Main Road – Tiverton, RI 02878 – Re: Expiration of Surety & As-Built Plans (3/20/07) – E/S Campion Avenue & S/S Bulgarmarsh Road – Indian Rock Estate (10 Lots) Developer Arthur Smith and attorney Jeremiah Leary were present on behalf of the petition. Mr. Smith requested a two-year extension on his surety for the development, currently posted in the form of a letter of credit, which would expire on March 20, 2007. He noted that the topcoat had not been installed and two (2) lots were unsold. The Chair noted that a \$500 fee would be due for a surety extension. She also noted that Mr. Webster had not yet arrived at the meeting. Mr. Berg stated that he did not believe that Mr. Webster had visited the site recently and added that the as-built plans would be required for any reduction in the surety amount.

Mr. Berg made a motion to extend the surety to March 20, 2009, subject to the receipt of the \$500 fee. Mr. Raposa seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor.

2. Ledoux Lane Development Corp. – c/o Louis Ledoux – 300 High Hill Road – Tiverton, RI 02878 – Re: Expiration of Surety & As-Built Plans (3/5/07) – Meadow Woods Subdivision (8 Lots) – Phase II – W/S Lake Road & Extension of Ledoux Lane Attorney Jeremiah Leary was present on behalf of the petition. Mr. Leary stated that Mr. Ledoux had been out of the country and had only recently received the Board's notice of expiration. He stated that Mr. Ledoux would provide a two (2) year extension to the letter of credit prior to February 6, 2007. The Chair noted that there were outstanding issues on the site, such as a lack of snow plowing for individuals living on the unaccepted portion of Ledoux Lane, problems with the catch basins, detention pond and drainage issues, etc.; however Mr. Webster had not yet arrived to elaborate on them. Mr. Berg noted that he had visited the site several months ago with Mr. Webster, at which time they had observed that the base coat of asphalt had been breaking up in several places. Mr. Berg also noted that the improvements are supposed to be finished within three (3) years of Final Plan Approval and added that, at a future date, he would be requesting that the Planning Board consider increasing the thickness of the base coat in order to allow it to last longer than three (3) years.

A brief discussion ensued regarding whether or not to require Mr. Ledoux to appear before the Board at a February meeting. Mr. Berg suggested that the surety could be extended and the site inspected with deficiencies to be corrected by Mr. Ledoux. He added that the road should be checked for passability by emergency vehicles.

Arthur Smith, of Grandview Construction, stated that he had started working on the site the week before and would be handling snow removal this winter. He also stated that the topcoat would be installed in the spring, and that the detention pond would be repaired.

Mr. Hughes made a motion to grant a one-year extension for the surety, to March 5, 2008, subject to receipt of the \$500 fee. Mr. Leary noted that the topcoat must sit for one full winter season prior to street acceptance, and suggested that a two-year extension might be more appropriate. The Chair noted that complaints had been received and Mr. Berg stated that he would prefer a one-year extension. Mr. Leary suggested an eighteen (18) month extension. Mr. Hughes amended his motion to grant an eighteen (18) month extension for the surety, to

expire on September 5, 2008, subject to the receipt of the \$500 fee. Mr. McCollough seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor.

3. Estate of Joseph Barboza – Richard Barboza, Executor – 890 Sanford Road – Westport, MA 02790 – Major Land Development (Road Required) – Master Plan Review – Public Information Meeting – W/S Lake Road – Delia Drive – 15 Lots (TC – 3/15/07) Engineer Alex Gorodetsky and applicant Richard Barboza were present on behalf of the petition. Mr. Gorodetsky distributed revised plans. The Chair opened the public hearing stating that fifteen (15) certified abutters' notices had been mailed of which two (2) receipts had not been returned – Marc & Deborah Pallasch, 432 Lake Road and Sarah Everhart Skeels, 15 Jacqueline Way. The Chair noted that one of the two receipts not returned belonged to the Pallasch's, and that Mrs. Pallasch was seated in the audience. The Chair also noted that there had been discussion about the time clock extension to March 15, 2007 at the last meeting and that a written request had been received in writing as requested (See file).

Mr. Berg noted that comments had been received that day from the Board's consulting engineer, Commonwealth Engineers and Consultants (See file) and a technical review meeting had been scheduled for January 18th. He also noted that the Board had just received new plans that night, which he had not reviewed. The Chair asked if the petitioner would extend the time clock. Mr. Barboza agreed to extend the time clock to May 1, 2007.

Mr. Gorodetsky reviewed the revised plans and stated that there was no longer a proposal to connect drainage from this property under Lake Road to existing drainage on Jacqueline Way, and the drainage structures would no longer intercept the groundwater. He estimated that there would be a 20% decrease in runoff from the site. Mr. Gorodetsky opined that he would satisfactorily address Commonwealth's concerns with regards to drainage.

The Chair expressed her displeasure with the plan to run stormwater off the property south along Lake Road discharging in to a brook. Mr. Gorodetsky replied that there was an existing culvert, which was already accepting drainage. The Chair opined that drainage should be contained on the subject parcel, and that off-site drainage would set a bad precedent. Mr. Gorodetsky replied that this was not possible due to the topography of the property. Mr. Raposa noted that Lake Road floods constantly. Mr. Gorodetsky stated that the road currently floods with a 25-year storm and would not with the proposed improvements. He added that the road would still flood with a 50-year storm. Mr. Raposa asked if all of the proposed detention ponds were necessary. Mr. Gorodetsky replied in the affirmative. The potential for installation of oil/grit separators, or stormceptors was discussed. The homeowners would be responsible for maintenance of these structures.

Mr. Berg asked if the applicant had submitted to RIDEM (Rhode Island Department of Environmental Management) for subdivision suitability. Mr. Gorodetsky replied in the negative, stating that it would be done at the preliminary plan phase. He noted that it was a very tight design and that the number of lots proposed would be subject to ISDS (Individual Sewage Disposal System) approval and could change.

Ms. Weidman inquired about the future of the stonewalls on the parcel. Mr. Gorodetsky replied that they would be left intact where possible, but that no definite plans had been determined. Mr. Barboza stated that he would like to keep the site as natural as possible. Mr. Gorodetsky added that the houses depicted were approximately four thousand (4000) square feet and that different houses may actually be built.

Mr. Hughes noted that a list of abutters was required on the plans, as well as showing the suitable and unsuitable land broken down by lot. The Chair noted that there were also spelling errors on the plans. The location of the affordable lots was discussed, with Mr. Hughes disagreeing with the designation of Lot 15 as affordable. Mr. Hughes and Ms. Weidman noted that the affordable lots should not be "leftovers". Mr. Berg stated that Sheet 4 should show lot numbers and suitable area.

The Chair opened the public portion of the meeting. Abutter Deborah Pallasch, 432 Lake Road, inquired about the distance between the Lake Road pavement and her lot. Mr. Gorodetsky replied that it was approximately ten

(10) to twelve (12) feet. Mr. Webster added that it was approximately thirteen (13) feet in the area near Mrs. Pallasch's driveway and that the roadway was approximately twenty-one (21) to twenty-two (22) feet wide, plus shoulders, with a fifty (50) foot right of way. Mrs. Pallasch asked who would maintain the drainage. The Chair replied that it would be maintained by the homeowner's association. Mrs. Pallasch asked if existing trees would be cut to install the detention ponds. Mr. Gorodetsky replied in the affirmative. Mr. Raposa added that a landscaping plan would be required. Mrs. Pallasch stated that she was greatly concerned with the drainage, and possible effects of runoff on her basement and septic system, which are currently fine.

Wayne Randall, representing his father William Randall (owner of land to the south), expressed his concern regarding the very wet frontage of his father's lot. He stated that he was concerned that the front of the property would flood, making the property less desirable for development.

Kathy Micken, 517 Lake Road, inquired about the acreage of the site and the amount of usable land. The Chair invited her to view the plans in the Planning Board Office if she had any other questions or was not satisfied with the time spent that evening. Mr. Gorodetsky replied that there were 31.4 acres total, with 13 acres of open space and 4.5 +/- acres of wetlands.

A site walk was scheduled for Saturday, February 3rd at 9:00 AM with a backup date of February 10th in case of inclement weather. Mr. Hughes made a motion to continue the petition to the meeting of February 13, 2007 with the public portion of the meeting to remain open. Mr. Raposa seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor.

4. Ralph Campanelli (Applicant) – Cottrell Homestead Co., LLC (Owner) – c/o Jeremiah Leary – 1340 Main Road – Tiverton, RI 02878 – Major Subdivision (Road Required) – Public Hearing Combined Revised Master Plan & Preliminary Plan Review – Cont'd - W/S Fish Road, E/S Church Pond Drive, S/S Mountain Laurel Lane – 61 Residential Lots (TC – 4/1/07) Attorney Jeremiah Leary, applicant Ralph Campanelli and engineer Chris Duhamel of DiPrete Engineers were present on behalf of the petition. Mr. McCollough recused himself from the discussion since he is an abutter and left the table. Mr. Berg noted that there was no longer a quorum of members due to Mr. McCollough's recusal. He added that no plans had been submitted for the Planning Board members' review (one set of plans had been submitted to the Planning Board Office on January 9th) and that Commonwealth had not had time to review their set of plans. Mr. Berg made a motion to continue this item to the February 13th meeting.

Mr. Leary objected to the continuance, noting that Mr. Duhamel had addressed Commonwealth's previous comments. Mr. Campanelli complained about the delay, noting that he had been waiting for months for an approval. Mr. Berg suggested that the applicant should schedule a meeting with Mr. Webster and Commonwealth. Mr. Webster opined that his comments could be resolved. Mr. Berg stated that the Board needed positive comments from both Mr. Webster and Commonwealth. The Chair strongly stated that the Board was not going to vote on any approval without plans. A discussion ensued. Mr. Berg read aloud an email from Deirdre Paiva of Commonwealth (See file) stating that they had only had three (3) days to review the revised plans, which was not adequate to render comments.

Since there was no quorum on this item, no vote could be taken. The Chair continued this item to the February 13th meeting. The applicant requested to be last on the agenda due to a prior commitment.

5. GHL Investment, LLC – 1803 So. Australian Ave., Suite A – West Palm Beach, FL 33409 – Ford Farm Subdivision – Surety & Completion of Development and As-Built Plans – Cont'd – Ford Farm Subdivision – The Estates of Mount Hope Bay Attorney Jeremiah Leary and engineer William Smith of Civil Engineering Concepts were present on behalf of the petition. Mr. Berg distributed in-progress as-built plans and an easement plan, which were received recently. He noted that an easement would be required over Lot 25 (owned by Ralph Parkes) because of an improperly located drain line and asphalt for the maintenance access road. The ponds needed to be cleaned and the completed as-builts would be required prior to street acceptance. The easement over Lot 25 would also need to be worked out between the developer and the lot owner. Mr.

Smith stated that they were working on this issue. Mr. Berg opined that another option would be to move the road and the pipes. Adding that any work performed by the Town using the surety money would cost more, due to prevailing rates that the town would be required to pay.

Mr. Leary requested a continuance to the March meeting. Mr. Webster stated that he had not had time to review the plans. Mr. Smith stated that he had not yet set the monuments, but that he had looked at the grades after paving. He added they would try to perform maintenance within the next two (2) weeks.

Lise Fontaine, owner of Lot 24, spoke about the fill dumped in her front yard (approximately twenty feet from the property line), which remains despite her complaints (See previous meeting minutes). She noted that if she removes the fill on her property, the shoulder of the road could collapse. She noted that a retaining wall could be required, which should be located off of her property. Mr. Berg noted that the Fontaine's attorney had sent a letter to Mr. Hodges (of GHL Investment), and asked if there had been a reply. Ms. Fontaine stated that she had spoken with Mr. Hodges, who had indicated that he would like to work something out, but that subsequent calls had not been returned.

Mr. Berg noted that the Town has not accepted the street and that the amount of surety held by the Town would be stretched thin if the Town were required to complete the improvements. Ms. Fontaine asked for a time frame, noting that she needed to move forward with landscaping. Mr. Smith stated that he had met with Ms. Fontaine and Mr. Parkes that day and would be shooting elevations. He noted that they hoped to find an agreeable solution, and would like to review the options. Mr. Berg noted that this was a case where the Town's regulations had been disregarded during construction.

Mr. Hughes made motion to continue this item to April 3, 2007. Mr. McCollough seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor. Mr. Parkes spoke from the audience requesting that the fill that was used be analyzed to ensure that it was clean, since it appeared to contain construction debris. Mr. Smith stated that he would ask Grandview Construction to check their records.

6. Town of Tiverton – Wastewater Management Superintendent – Tiverton, RI 02878 – Sewer Line Expansion Consultation per Town Charter Section 1010 (a) – Trailer Avenue The Chair stated that Wastewater Management Superintendent John Lincourt had requested a continuance of this item. He is waiting for new plans and two more easements. Mr. Berg made a motion to table this item pending receipt of new plans and easements. Mr. Raposa seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor.

7. Administrative Officer

A. Administrative Officer's Report: The report was distributed.

B. Miscellaneous

1. Proposed Zoning Amendment(s) & Comp Plan – Status Ms. Weidman had submitted her suggestions for zoning amendments and Mr. Spencer will also be looking at possible amendments. Ms. Weidman suggested that the Zoning Map should be updated to reflect open space areas. She also recommended crafting regulations for communications towers and also mentioned that a study of non-conforming uses should be performed. A brief discussion ensued regarding lot sizes in rural residential developments.

2. Zoning Amendment

a. Draft – Article V – District Dimensional Regulations – Cont'd Mr. Berg stated that he had not had time to review Ms. Weidman's most recent draft. A brief discussion ensued regarding lot coverage and building coverage. The Board agreed to send their comments directly to Ms. Weidman.

3. Technical / Design Review Committee A committee will be established, including Mr. Berg, Mr. Spencer, Mr. Webster and Commonwealth. It was agreed that a formal committee would not be formed until Mr. Spencer had sat through a few more ad-hoc reviews.

4. Zoning Ordinance Rewrite Subcommittee Mr. Berg suggested that a small group should meet with Mr. Spencer to discuss ideas. Ms. Weidman opined that the charge should come from the Town Council and that a group should be larger than just Planning Board members. A discussion ensued.

8. Tiverton Planning Board

A. Starwood Tiverton, LLC (N/F Starwood Capital Group, LLC) – Request for Surety Reduction Based on Construction Progress The requisition dated December 18, 2006 (Req. No. 28, Draw No. 15 – Phases 3, 4, 5), and Commonwealth Engineering's letter of approval dated December 13, 2006 was reviewed. In accordance with these documents, Mr. Hughes made a motion to approve the release of \$33,108.63. Mr. Raposa seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor.

Audience member Peter Moniz requested that the Building Inspector be asked to inspect the railroad right of way, to make sure that no encroachments had occurred. Mr. Hughes noted that almost \$600,000 would be remaining in the surety after this release, and opined that Starwood should be noticed before holding up their funds. Mr. Berg stated that he would ask Commonwealth to look at the right of way as an issue separate from the surety. The Board agreed.

B. Introduction of Town Planner The Planner was introduced at the beginning of the meeting.

C. Planning Consultant's Items

1. Miscellaneous Ms. Weidman stated that she would call Peter Flinker of Dodson Associates regarding the work done for the Design Standards Project and see if she could get some documentation and maps that he had produced. The Chair asked if he had finally been paid for his services. Ms. Weidman replied in the affirmative.

D. Correspondence A booklet produced by Statewide Planning regarding the Land Use 2025 Plan was distributed.

E. Miscellaneous There was no discussion.

F. Approval of Minutes:

December 5, 2006 (Special Meeting), December 12, 2006, December 14, 2006 (Special Meeting) these minutes were approved at a previous meeting

January 2, 2006 (Special Meeting) there was no discussion of this item because the minutes were not yet available.

G. Closed Executive Session There was no discussion of this item.

1. Litigation – RIGL 42-46-5(2)

H. Adjournment: Ms. Raposa made a motion to adjourn. Mr. Hughes seconded the motion. The motion passed unanimously. Ms. Eva, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor. The meeting adjourned at 10:10 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____
Kate Michaud

Approval Date: February 13, 2007